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United States Senate

WASHINGTON, DC 20510-3405

February 11, 2008

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Stephen Johnson
Administrator
Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Avenue Northwest
Washington, DC 20460

Dear Mr. Johnson:

For many years, I have been working with the Environmental Protection Agency on remediation of a Superfund site in southeastern North Dakota. This area, known as the Arsenic Trioxide Superfund (ATS) site, has high concentrations of arsenic in its drinking water. The most recent results of the water sampling have been analyzed and the contamination levels are truly shocking.

The EPA has identified a rural water supply system as the most appropriate remedy and yet, this process has dragged on for years. The urgency of this situation could not be more clear. I urge you to take immediate steps to have this project funded so that construction can begin this spring.

Unfortunately, EPA is saying that most of the remedial action dollars are already committed to ongoing projects so it is not clear that there will be any funding available at all for this project in 2008, despite the recent arsenic testing and regardless of the priority ranking it receives.

The North Dakota Department of Health collected initial samples, follow-up samples, validation samples, and confirmation samples to determine the level of arsenic contamination within the ATS. The data have been validated by EPA. Those data show:

- Of the 375 wells that were sampled, 314 or 84 percent had arsenic over 10 ppb – the EPA standard for drinking water.
- 42 wells had readings over 100 ppb
- 94 wells had readings between 50 ppb and 100 ppb
- 127 wells had readings between 20 ppb and 50 ppb
- 51 wells had readings between 10 ppb and 20 ppb

So, over one-third of the households had contamination that was at least five times the EPA standard for arsenic. And more than 10 percent of the sample had levels over ten times the limit.

This is completely unacceptable. And while the EPA is providing bottled water for residents within the boundary of the site, there have been repeated indications that EPA is not taking this threat seriously. For example, EPA continues to drag its feet on having the project rated. We hope this will be done in late February. But your agency has decided that the presentation to the Priority Panel will be made by a relatively new manager in Region VIII – not the principle staffers who have worked on this project for some long while. Even more troubling, EPA is saying that there may not be available funds for the project in the coming year because of existing commitments to ongoing projects.

The stakeholders in our state have worked in good faith with the EPA on this project since at least 2003. They have faced obstacle after obstacle in trying to move ahead with this effort. These most recent arsenic contamination results are startling and should be a call to action by your agency. We need to clear away the bureaucratic underbrush and get money flowing to this project this spring.

Thank you for your personal attention to this problem. I look forward to hearing from you for an update on how we can make this rural water system a reality.

Sincerely,

A handwritten signature in dark ink, appearing to read "Byron", with a stylized, flowing script.

Byron L. Dorgan
U.S. Senator